



January 26, 2016

SENATE BILL No. 204

DIGEST OF SB 204 (Updated January 21, 2016 2:08 pm - DI 106)

Citations Affected: IC 35-43.

Synopsis: Foreclosed and abandoned property. Provides that a person who recklessly, knowingly, or intentionally damages or defaces property that is the subject of a mortgage foreclosure proceeding commits foreclosure mischief, a Class A misdemeanor. Amends the statute concerning criminal trespass to specify that a person commits criminal trespass if the person knowingly or intentionally enters or refuses to leave the property of another person after having been prohibited from entering or asked to leave the property by a law enforcement officer when the property is: (1) vacant real property or a vacant structure (both as defined by the statute concerning the abatement of vacant structures and abandoned structures); or (2) designated by a municipality or county enforcement authority to be abandoned property or an abandoned structure. (Current law does not specify that the property does not have to be designated as vacant by a municipality or county enforcement authority for purposes of the offense.)

Effective: July 1, 2016.

Merritt

January 7, 2016, read first time and referred to Committee on Civil Law.
January 25, 2016, amended, reported favorably — Do Pass.

SB 204—LS 6855/DI 101



January 26, 2016

Second Regular Session 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

SENATE BILL No. 204

A BILL FOR AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-43-1-2.4 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2016]: **Sec. 2.4. A person who recklessly, knowingly, or**
4 **intentionally damages or defaces property:**

5 (1) **in which a lender has a security interest or that is**
6 **mortgaged or pledged to a lender; and**

7 (2) **that is the subject of a mortgage foreclosure proceeding;**
8 **commits foreclosure mischief, a Class A misdemeanor.**

9 SECTION 2. IC 35-43-2-2, AS AMENDED BY P.L.21-2014,
10 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 2016]: Sec. 2. (a) As used in this section, "authorized person"
12 means a person authorized by an agricultural operation to act on behalf
13 of the agricultural operation.

14 (b) A person who:

15 (1) not having a contractual interest in the property, knowingly or
16 intentionally enters the real property of another person after
17 having been denied entry by the other person or that person's

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agent;

(2) not having a contractual interest in the property, knowingly or intentionally refuses to leave the real property of another person after having been asked to leave by the other person or that person's agent;

(3) accompanies another person in a vehicle, with knowledge that the other person knowingly or intentionally is exerting unauthorized control over the vehicle;

(4) knowingly or intentionally interferes with the possession or use of the property of another person without the person's consent;

(5) not having a contractual interest in the property, knowingly or intentionally enters the:

(A) property of an agricultural operation that is used for the production, processing, propagation, packaging, cultivation, harvesting, care, management, or storage of an animal, plant, or other agricultural product, including any pasturage or land used for timber management, without the consent of the owner of the agricultural operation or an authorized person; or

(B) dwelling of another person without the person's consent;

(6) knowingly or intentionally:

(A) travels by train without lawful authority or the railroad carrier's consent; and

(B) rides on the outside of a train or inside a passenger car, locomotive, or freight car, including a boxcar, flatbed, or container without lawful authority or the railroad carrier's consent;

(7) not having a contractual interest in the property, knowingly or intentionally enters or refuses to leave the property of another person after having been prohibited from entering or asked to leave the property by a law enforcement officer when the property is:

(A) vacant **real property (as defined in IC 36-7-36-5) or a vacant structure (as defined in IC 36-7-36-6);** or

(B) designated by a municipality or county enforcement authority to be abandoned property or an abandoned structure (as defined in IC 36-7-36-1);

(8) not having a contractual interest in the property, knowingly or intentionally enters the real property of an agricultural operation (as defined in IC 32-30-6-1) without the permission of the owner of the agricultural operation or an authorized person, and knowingly or intentionally engages in conduct that causes property damage to:



- 1 (A) the owner of or a person having a contractual interest in
- 2 the agricultural operation;
- 3 (B) the operator of the agricultural operation; or
- 4 (C) a person having personal property located on the property
- 5 of the agricultural operation; or
- 6 (9) knowingly or intentionally enters the property of another
- 7 person after being denied entry by a court order that has been
- 8 issued to the person or issued to the general public by
- 9 conspicuous posting on or around the premises in areas where a
- 10 person can observe the order when the property has been
- 11 designated by a municipality or county enforcement authority to
- 12 be a vacant property, an abandoned property, or an abandoned
- 13 structure (as defined in IC 36-7-36-1);
- 14 commits criminal trespass, a Class A misdemeanor. However, the
- 15 offense is a Level 6 felony if it is committed on a scientific research
- 16 facility, on a key facility, on a facility belonging to a public utility (as
- 17 defined in IC 32-24-1-5.9(a)), on school property, or on a school bus or
- 18 the person has a prior unrelated conviction for an offense under this
- 19 section concerning the same property. The offense is a Level 6 felony,
- 20 for purposes of subdivision (8), if the property damage is more than
- 21 seven hundred fifty dollars (\$750) and less than fifty thousand dollars
- 22 (\$50,000). The offense is a Level 5 felony, for purposes of subdivision
- 23 (8), if the property damage is at least fifty thousand dollars (\$50,000).
- 24 (c) A person has been denied entry under subsection (b)(1) when the
- 25 person has been denied entry by means of:
- 26 (1) personal communication, oral or written;
- 27 (2) posting or exhibiting a notice at the main entrance in a manner
- 28 that is either prescribed by law or likely to come to the attention
- 29 of the public; or
- 30 (3) a hearing authority or court order under IC 32-30-6,
- 31 IC 32-30-7, IC 32-30-8, IC 36-7-9, or IC 36-7-36.
- 32 (d) A law enforcement officer may not deny entry to property or ask
- 33 a person to leave a property under subsection (b)(7) unless there is
- 34 reasonable suspicion that criminal activity has occurred or is occurring.
- 35 (e) A person described in subsection (b)(7) violates subsection
- 36 (b)(7) unless the person has the written permission of the owner, **the**
- 37 owner's agent, **an** enforcement authority, or **a** court to come onto the
- 38 property for purposes of performing maintenance, repair, or demolition.
- 39 (f) A person described in subsection (b)(9) violates subsection
- 40 (b)(9) unless the court that issued the order denying the person entry
- 41 grants permission for the person to come onto the property.
- 42 (g) Subsections (b), (c), and (f) do not apply to the following:



- 1 (1) A passenger on a train.
- 2 (2) An employee of a railroad carrier while engaged in the
- 3 performance of official duties.
- 4 (3) A law enforcement officer, firefighter, or emergency response
- 5 personnel while engaged in the performance of official duties.
- 6 (4) A person going on railroad property in an emergency to rescue
- 7 a person or animal from harm's way or to remove an object that
- 8 the person reasonably believes poses an imminent threat to life or
- 9 limb.
- 10 (5) A person on the station grounds or in the depot of a railroad
- 11 carrier:
- 12 (A) as a passenger; or
- 13 (B) for the purpose of transacting lawful business.
- 14 (6) A:
- 15 (A) person; or
- 16 (B) person's:
- 17 (i) family member;
- 18 (ii) invitee;
- 19 (iii) employee;
- 20 (iv) agent; or
- 21 (v) independent contractor;
- 22 going on a railroad's right-of-way for the purpose of crossing at a
- 23 private crossing site approved by the railroad carrier to obtain
- 24 access to land that the person owns, leases, or operates.
- 25 (7) A person having written permission from the railroad carrier
- 26 to go on specified railroad property.
- 27 (8) A representative of the Indiana department of transportation
- 28 while engaged in the performance of official duties.
- 29 (9) A representative of the federal Railroad Administration while
- 30 engaged in the performance of official duties.
- 31 (10) A representative of the National Transportation Safety Board
- 32 while engaged in the performance of official duties.



COMMITTEE REPORT

Madam President: The Senate Committee on Civil Law, to which was referred Senate Bill No. 204, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 17.

Delete pages 2 through 11.

Page 12, delete lines 1 through 27.

Page 15, delete line 35.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 204 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 6, Nays 0.

